Submission to the Productivity Commission
National Water Reform 2026 Inquiry

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Introduction

Friends of Latrobe Water (FLoW) is a community advocacy group based in Gippsland, Victoria and work to facilitate a positive post-coal mining legacy for future social and economic prosperity of the region in a manner that safeguards and protects the community and surrounding environment, including the Latrobe River system and connected waterways that contribute freshwater flows to the Ramsar listed Gippsland Lakes. FLoW, as a member networking with southern Victoria's Concerned Water Alliance jointly submitted previously to the National Water Agreement (NWA).

As part of our network, FLoW regularly contributes to discussion with regional and state regulators, policy directors and responsible agencies related to cause and effect of poor decision-making leading to mismanagement and exploitation of our declining water resources and irreparable contamination of surface and groundwater.

Overview

Historically, Gippsland was in the unenviable position as being resource rich with coal, oil, gas, water and forests which created much wealth for both our wider communities and state government. But it came with a terrible legacy; long-term overextraction of our connected waterways, depleted onshore aquifers and toxic contamination to water and soil. Cashed up industry are leaving but the manipulation and political collusion of coverups is continuing because the national framework is poor, the processes are fragmented, knowledge is not respected and decision-making is based more on short term economic windfalls that benefits the few but long-term, punishes many. This scenario is replicated across Victoria.

Nationally, while protection of water resources does not have primacy or consistency under state and commonwealth regulatory frameworks, sustainability cannot be achieved, food security cannot be guaranteed, public health cannot be improved and restoration of the environment will not be realised.

It is clearly evident the primary problem with the construction of the NWI is the lack of legally binding mechanisms and ability to hold states and territories to account.

Blatant state government disregard for water protection in Victoria is evident with environmental funding continually slashed. At a high level, these following points are being exploited and manipulated by corporate interest and lazy, incompetent state regulators.

- Prepare water plans with provisions for the environment but no resources to implement them.
- Ability to achieve sustainable water use in over-allocated or stressed water systems.
- Political interference via Ministers Discretion to undermine environmental health
- Starving water corporation of pricing opportunities which reflect the real costs for water storage, delivery and wastewater infrastructure
- No priority management and containment of emerging contaminants of concern.

FLoW has concerns with,

- poor reporting and monitoring systems reducing State accountability to water quality and quantity targets.
- lack of climate change and extreme weather events incorporated into water planning.
- lack of national regulatory frameworks to promote consistency.
- no national EPA.
- relevant standards and guidelines that are relied upon for decision-making are outdated leading to legal loopholes.
- purging of environmental regulatory safeguards without follow-up auditing to ensure no contradictions with relevant Act's objectives.
- NWI provisions that are vague, non-harmonised with relevant acts weaking enforcement mechanisms for environmental, cultural, social and economic water interests and values.

As such, the NWI and the NWA are condoning ongoing barriers to:

- address climate change and declining inflows,
- enable integrated water systems resourcing,
- provide effective environmental water management,
- access safe and secure drinking water
- support human rights principles; and
- transparent and accessible information.

How can a modernised NWI apply the quadruple bottom line as an extended sustainability framework to prioritise what – profit over equality, economic over environment, manipulation over social, politics over people.

Where has progress been limited or slower than expected, or been reversed, and why?

Industry vs community

It is important to connect those Acts and regulations that sit outside of water but have significant and varied detrimental impacts to water quality region by region related to different industry sectors. The lack of national harmonised frameworks is preventing independent accountability and capacity to monitor and audit Victoria's progress toward NWI commitments.

For Latrobe Valley, our poor water quality is a result of toxic air emissions from coal generation and heavy industry that deposit to land and water merging with same industry discharges to water. This includes contaminated runoff to waterways from other heavy industry in Latrobe Valley and broader industry sectors in and around waterways from forestry operations to agricultural and poor veterinary practices.

The Act tasked with licencing air emissions and approving licence discharges is the Victorian Environment Protection Act 2017 (EP Act) with the General Environmental Duty[1] (GED) intent to prevent harm. The application of the GED framework is totally absent from the planning decision and approval process. EPA is still reactive to risk of harm, and the environment is still not protected as the GED has not been harmonised across other industry sectors.

Nationally, this model is used however, it fails to capture foreseeable risk via a causation net for effective environmental management of stormwater, wastewater/leachate discharges and air quality.

The United Nations Special Rapporteur *on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes* visited Latrobe Valley as part of his Australian visit[2] in September 2023. While it was clear there was an overt weighing to civil society, this is not unfounded in reality with his final report having a particular hazard focussed direction.

[1] https://www.epa.vic.gov.au/general-environmental-duty

[2] https://www.ohchr.org/en/documents/country-reports/ahrc5752add2-visit-australia-report-special-rapporteur-implications-human

The Special Rapporteur notes:

- we do not have a national environmental regulator to enforce harmonised national standards
- a deep disconnect between the government and community where community see capture of the State by corporate interests but government sees efforts towards stronger regulations to address the risks of chemicals and pollution that is not apparent.
- Ambient air quality standards in Australia are less protective than in other member countries of the Organization for Economic Cooperation and Development (OECD). Moreover, certain industries have received exemptions from compliance with relevant standards. Where environmental standards are not robust, the outcome is legalized contamination.
- where hazardous pesticides have been banned because of their potential adverse health impacts, that assessment should be given greater weight by the Australian regulator, to ensure protection of human health… occupational exposure of workers in the fields, but also air drift and contamination of water sources…
- An independent review of the Australian Pesticide and Veterinary Medicines Authority, released in July 2023, stated that industry interests are embedded into the Authority's regulatory priorities and culture…the Authority's emphasis on timely registrations, assessments and approvals over monitoring, compliance and enforcement is a prioritization that best serves industry interests. As described by this review, this would appear to be a textbook case of corporate capture.

Victoria is going backward on reform with poor government policy and funding reductions that are not delivering net benefits for community or environment.

Climate change and variable inflows

Across the state, climate change is poorly integrated into policy and planning provisions but even less so in application for decisions-making. Any decline in water availability plus the impacts of climate change will likely further impact on the environment's share of water.

The Latrobe River system into Gippsland Lakes remains 129GL in deficit.[3] The pressures of climate change, population growth, data centres and agriculture

[3] Comprehensive studies have found the Durt-Yowan (Latrobe River) and estuary have an environmental water deficit of 129 gigalitres per year and additional water is urgently needed to maintain water quality and habitat, and support drought refuges https://www.water.vic.gov.au/our-programs/long-term-water-resource-assessments-and-strategies/sustainable-water-strategies/central-and-gipps-sws p225 of 350

expansion is significant yet, the priority is to buffer major urban water storages and large industry.

It is important the Victoria State Government is held accountable and can justify water saving targets in their commitments to the NWI.

Can the NWI be effective to address climate impacts from:

- decreased surface water flows affecting dilution ratios to reduce pollution loading in waterways from licenced industry discharges.
- land degradation from intense agricultural and urban activity leads to significant groundwater depletion and soil consolidation, causing land subsidence and further degrading water distribution systems.
- sea level rise and salt intrusion into coastal aquifers.
- inadequate monitoring of water quality at scale and a lack of real-time data impairing the ability to assess the performance of existing safeguards.
- reduced natural flows which increase water temperature and lower oxygen levels, leading to an increased likelihood of toxic algal blooms and reduced biodiversity.
- loss of wetlands which provide important functions to absorb flooding events and filter contaminants

Groundwater

There is a requirement for investment funding for research, infrastructure monitoring for data collection to provide evidence-based decision-making so water management can be better integrated into whole of government policy.

Victoria launched GM2030[4] in 2022 making some positive progress as a *Sustainable Yield Assessment* tool but some glaring gaps still exist which would prevent the State Government truthfully reporting on effective gains in groundwater system knowledge and how best to protect our state wide groundwater basins from overallocation and contamination.

Gippsland is a case example where declines in groundwater levels in the confined aquifers (mostly the middle and lower aquifers) are mainly due to groundwater extractions. In the Gippsland basin this includes groundwater dewatering and depressurisation for the Latrobe Valley coal mines and offshore oil and gas extraction.

[4] https://www.water.vic.gov.au/water-sources/groundwater/groundwater-management-2030

GM2030 states 'the most at risk systems are already being actively managed' however also acknowledge in briefings that the observation bore network is poor, there is no saline mapping for seawater intrusion into the coastal aquifers, climate change is excluded from core modelling, significant data gaps exists, and regulatory framework is incomplete for managing cumulative impacts.

What policy, legislative, regulatory, funding or governance factors have influenced progress (positively or negatively), and how?

With an emphasis on Traditional Owners in Victoria, over the last 2 decades major reforms include *'the creation of the environmental water reserves and environmental water entitlements, allowed for tradeable water entitlements, increased volumes of environmental water entitlements, and strengthened environmental protections.'* This includes Victorian Governments *Water is Life - Traditional Owner Access to Water Roadmap*. Why then are our waterways in such an unhealthy state based on these so-called major reforms?

Yet, at the same time, allocations have increased to irrigators and industry to the point our surface and groundwaters are now grossly over allocated, the waterways are slowly dying having become dangerously polluted and salinized due to poor regulatory oversight and mismanagement and the Gippsland Lakes is nearing the point of no return. This all impacts the enduring health of Country. Where do First Peoples' right to water sit in the hierarchy of consumptive use? That users of private land with high chemical use are contributors to the poor health of our waterways should not deter the Government from prescribing stronger water reform to seek the best outcomes for First Peoples.

Barriers and emerging risks

Victoria's environmental assessment process sits under the Victoria Environmental Effects Act. Since 2000, two reviews and a state parliamentary inquiry have focused on this Act and the EES process finding the legislation and associated EES processes to be costly, and lacking clarity and transparency. The 2011 Inquiry, importantly concluded that Victoria's environmental impact assessment system was not meeting its objectives.[5]

[5] https://www.parliament.vic.gov.au/get-involved/inquiries/inquiry-into-the-environment-effects-statement-process-in-victoria/reports

- *The committee recommended extensive legislative reform to increase certainty, reduce costs and shorten time frames. Its 50 recommendations detail the attributes and workings of an effective environmental impact assessment system. The Parliamentary report identified issues raised by witnesses and in written submissions about the EES process, including:*

Victorian Bilateral Agreement[6] was signed in 2014 by then Federal Environmental Minister determining Victoria's processes were effective but the Victorian Auditor General's assessment in 2017[7] notes otherwise. Most notably, the EES assesses a project on its merit rather than consideration of cumulative impacts with the state planning minister even though risks are foreseeable. There are limited protections federally and this environmental assessment process is not even consistent with objectives of the Environment Protection and Biodiversity Conservation Act 1999, section 44.[8]

The lack of reform to the EES process by successive State Governments provides a significant barrier to environmental reform.

Pricing and economic regulation

Price affordability and beneficial use of recycled water

Everything about water is increasing in price with construction, delivery, treatment yet price affordability appears to be the priority for state and federal policy. Water corporations have no legislative or statutory weight behind them to assist and/or compel urban or regional strategies to protect inflows into their storages, protect stream ecology, reduce water harvesting and diversions from rivers/waterways or a plan to address emerging contaminants entering catchments requiring treatment.

Regional water corporations are tasked with providing a 'beneficial use' for recycled water from wastewater treatment plants and dealing with flood and stormwater concerns. The objective and dependence of recycled water as another source of water in a drying climate is flawed if its 'beneficial' reuse is not appropriately treated.

The current treatments for wastewater plants to remove emerging contaminants are cost prohibitive and why the water corporations have called out for help from the Federal Government in the NEPM draft to either remove chemicals of concern from the point source, stronger enforcement or assist with funding.

- *the lack of detail in the EE Act and uncertainty of the status of the Ministerial Guidelines made under the EE Act*
- *the non-binding nature of the minister's recommendations and conditions*
- *barriers to public participation*
- *the need for more robust monitoring and auditing arrangements.*

- *In response to the inquiry, the former government committed to reforming the EE Act and EES process.*
- *…The government agreed to the policy reforms but in late 2013 decided not to proceed with the proposed reforms. It did not provide reasons to the public or the department for discontinuing reform efforts.*

[6] https://www.dcceew.gov.au/environment/epbc/approvals/state-assessments/vic#toc_0

[7] https://www.audit.vic.gov.au/report/effectiveness-environmental-effects-statement-process?section=

[8] https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/epabca1999588/s44.html

However, with a focus on water price affordability, water corporations are seriously under resourced to effectively treat wastewater or provide for essential upgrades. Substantial investment will be required to improve both treatment technologies and capacity.

There is now urgency for the Commonwealth to provide national wide infrastructure co-funding for wastewater treatment facilities because wastewater is currently being dispersed throughout our communities unchecked. Additionally, discharges of recycled wastewater are often occurring upstream of drinking water take-offs.

This has led to an increased focus on the presence and significance of trace chemical contaminants revealing how perverse they are in the wastewater system yet understanding of their fate and the risk posed to public health is poor due to the lack of research and evidential data of likely human toxicity effects.

The Victorian Government, agencies and water corporations already reformed the technical information and guidelines for water recycling in May 2025 (EPA Publication 1910 & 1911)[9] applying a risk –based approach to assessing risks & management plans for recycled water use which did not include updating health-based guidelines. These reforms are aligned with outdated acts which are devoid of critical updated toxicity and health information related to emerging contaminants. The application of the precautionary principle appears to be non-existent.

Regional injustices

Building new infrastructure is costed on a per kilometre comparison from urban to regional but does not show full costings, externalities/trade-offs for other regions to enable customers to accurately understand the significance and justification for new infrastructure and associated costs. If water corporations cannot raise funds to upgrade facilities, where do their human rights fit with the NWI if price affordability is the priority?

- Not removing emerging contaminants of PFAS, nano particles, micro plastics, pesticides and pharmaceuticals in the treatment process will only add to the degradation in waterway health from continuous discharge of contaminants creating unintended land and water pollution with potential legal and economic implications.

[9] https://www.epa.vic.gov.au/victorian-guidance-water-recycling

- Pasture, crops and livestock are produced for human consumption yet there exists no national plan to protect public health, food security, address wastewater salinity and biodiversity impacts

Water corporations have very poor capacity and resources to manage the effluent cycle in Gippsland. Too many cases of under-treated wastewater are being discharged into critical creeks and rivers flowing into Gippsland Lakes. How will Government better resource water corporations to manage waste to not endanger the environment and health of the communities.

Where is the national risk identification for such critical infrastructure that will provide future water security. A national plan is required including an urgent funding investment model supported by a competent national EPA to fully concept chemical risk to make legally binding targets for the states and territories to upgrade wastewater treatment plant to protect public health and the waterways.

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